



## Eric Miller

President Trump nominated Eric Miller to serve on the Ninth Circuit Court of Appeals on July 13, 2018. Miller is anti-choice.

### Career<sup>1</sup>

- Bachelor of Arts, Harvard University
- Juris Doctorate, University of Chicago School of Law
- Clerk, Hon. Laurence Silberman, U.S. Court of Appeals for the District of Columbia Circuit, 1999-2000
- Clerk, Associate Justice Clarence Thomas, Supreme Court of the United States, 2000-2001
- Attorney, U.S. Department of Justice, Civil Division – Appellate Staff, 2001-2003
- Attorney-Advisor, U.S. Department of Justice – Office of Legal Counsel, 2003-2004
- Attorney, U.S. Department of Justice, Civil Division – Appellate Staff, 2004-2006
- Deputy General Counsel, Federal Communications Commission, 2006-2007
- Assistant to the Solicitor General, U.S. Department of Justice, 2007-2012
- Partner, Perkins Coie LLP, 2012-present

### Record on Choice-Related Issues

#### Court Cases

- Miller filed a brief in *Women’s Medical Professional Corporation v. Taft* in support of an Ohio law that bans a safe abortion procedure.<sup>2</sup> Outside observers noted that there was no real federal interest in the case,<sup>3</sup> and that brief was likely filed as part of the Bush administration’s larger efforts to undermine *Roe*,<sup>4</sup> efforts Miller was key in advancing.
- Miller argued in *Britell v. United States* that the military insurance policy CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) need not cover abortion care for a woman with an anencephalic pregnancy.<sup>5</sup> In this case, the woman had ended a wanted pregnancy on the advice of her doctors and her priest after finding out that the fetus had no chance of survival outside the womb.<sup>6</sup> The woman was later informed that her insurer, CHAMPUS, covers all medically necessary services related to pregnancy except abortion, which could be covered only under very

limited circumstances.<sup>7</sup> She sued, arguing that the policy violated due process clause, and Miller defended the government's denial of coverage.<sup>8</sup>

### Notable Information

- Miller has signed several letters endorsing Donald Trump's anti-choice judicial nominees, including letters in support of the nomination of Neil Gorsuch to the Supreme Court and the nomination of Greg Katsas to the D.C. Circuit.<sup>9</sup>
- Miller is active in the conservative, anti-choice Federalist Society.<sup>10</sup> The Federalist Society is led by Leonard Leo, the anti-choice activist who is heavily involved in selecting Trump's Supreme Court and lower court nominees. Leo has been outspoken in his anti-choice views, calling abortion "an act of force" and "a threat to human life,"<sup>11</sup> and serves as co-chairman of Students for Life,<sup>12</sup> a group whose mission is to "abolish abortion."<sup>13</sup>
- Miller has donated to anti-choice politicians including Cathy McMorris Rodgers and Marco Rubio.<sup>14</sup>

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<sup>1</sup> *Questionnaire for Judicial Nominees: Eric David Miller*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, <https://www.judiciary.senate.gov/imo/media/doc/Miller%20SJQ.pdf> (last visited October 19, 2018)

<sup>2</sup> *Women's Medical Professional Corporation v. Taft*, 353 F.3d 436 (6<sup>th</sup> Cir. 2003) (No. 01-4124)

<sup>3</sup> Trevor Morrison, *Why it was improper for the Department of Justice to file an amicus brief in support of a law banning "partial-birth" abortion*, FINDLAW (Feb. 14, 2002), <https://supreme.findlaw.com/legal-commentary/why-it-was-improper-for-the-department-of-justice-to-file-an-amicus-brief-in-support-of-a-law-banning-partial-birth-abortion.html>

<sup>4</sup> Charles Tiefer, *Veering Right: How the Bush Administration Subverts the Law for Conservative Causes* 51-52 (2004)

<sup>5</sup> *Britell v. United States*, 372 F.3d 1370 (Fed.Circ. 2004).

<sup>6</sup> *Britell v. United States*, 204 F.Supp.2d 182 (D. Mass. 2002)

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Questionnaire for Judicial Nominees: Eric David Miller*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, <https://www.judiciary.senate.gov/imo/media/doc/Miller%20SJQ.pdf> (last visited October 19, 2018)

<sup>10</sup> *Attorney Eric Miller on Upcoming Supreme Court Term*, FEDERALIST SOCIETY, <https://fedsoc.org/events/attorney-eric-miller-on-upcoming-supreme-court-term> (last visited Aug. 2, 2018), *The Jurisprudence of Judge Neil Gorsuch*, FEDERALIST SOCIETY, <https://fedsoc.org/events/the-jurisprudence-of-judge-neil-gorsuch-1> (last visited Aug. 2, 2018)

<sup>11</sup> Jeffrey Toobin, *The Conservative Pipeline to the Supreme Court*, THE NEW YORKER (April 17, 2017), <https://www.newyorker.com/magazine/2017/04/17/the-conservative-pipeline-to-the-supreme-court>

<sup>12</sup> *Board of Directors*, STUDENTS FOR LIFE, <http://studentsforlife.org/supporters/board-of-directors-1> (last visited July 5, 2018)

<sup>13</sup> *Mission Statement*, STUDENTS FOR LIFE, <http://studentsforlife.org/about/mission-statement/> (last visited July 5, 2018)

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<sup>14</sup> *Donor Lookup: Eric Miller*, OPEN SECRETS, <https://www.opensecrets.org/donor-lookup/results?name=Eric+Miller&cycle=&state=WA&zip=&employ=&cand=>